

other party thereto, and (iv) Seller has not received a notice of termination with respect to such contract. Except as set forth in Schedule 3, no consent or approval of any other party to any contract listed in such schedule is required for the assignment of such contract to Buyer or for the consummation of the transactions contemplated herein.

(3g) Employee Agreements and Benefits. With respect to present or former employees of the Station, Seller has no obligation, contingent or otherwise, under any employment contract, collective bargaining agreement with such employees, employees' pension plan or retirement plan, employees' profit-sharing plan, bonus plan or any other similar agreement or plan.

(3h) Insurance. Seller has in full force and effect adequate insurance on the assets listed in Schedule 1 and Schedule 2 hereof, and Seller will continue to maintain such insurance in full force and effect unless otherwise agreed by the parties.

(3i) Litigation. Seller is not a party to, and to the knowledge of Seller is not threatened with, any legal action or other proceeding before any court or administrative agency which might adversely affect the properties, business or condition (financial or otherwise) of the Station, and Seller does not know of any basis for any such legal action or proceeding.

(3j) Restrictive Documents. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not conflict or be inconsistent with or

result in the termination of or result in any breach of or constitute a default under the terms of any indenture, mortgage, deed of trust, covenant, agreement or other instrument to which Seller is a party or to which any of its property is subject (or in the event of any such conflict, the required consent of the other party or parties thereto has been validly granted, is in full force and effect and is valid and sufficient therefore).

(3k) Compliance with Applicable Laws. Seller has all required permits, certificates, licenses, approvals and other authorizations required to carry on the business of the Station and to own, lease, use and operate the properties associated with the Station at the places and in the manner in which the business of the Station is now being conducted. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not result in the violation by Seller of any laws, ordinances, regulations, rules or orders.

(3l) Payment of Taxes. Seller has fully paid or will have paid all federal, state and local taxes of every kind and description that are due and payable by Seller with respect to the Station and its operations, including, without limitation, all payroll, sales, license, franchise, property and income taxes.

(3m) Disclosure. The representations of Seller in this Agreement or in any schedule, exhibit or other document delivered pursuant hereto do not contain any untrue statement of a material fact or omit to state a material fact necessary in

order to make the statements contained therein or herein not misleading.

(4) REPRESENTATIONS AND WARRANTIES OF BUYER.

(4a) Organization and Capitalization of Buyer. Buyer is a corporation duly organized, validly existing and in good standing under the laws of Georgia.

(4b) Due Authorization by Buyer. The execution and delivery of this Agreement and the performance of the transactions contemplated hereby have been duly authorized and approved by the Board of Directors of Buyer, Buyer has full corporate power to enter into and perform this Agreement and the transactions contemplated hereby, and this Agreement constitutes a valid binding agreement of Buyer enforceable in accordance with its terms.

(4c) Restrictive Documents. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not conflict or be inconsistent with or result in the termination of or result in any breach of or constitute a default under the terms of any indenture, mortgage, deed of trust, covenant, agreement or other instrument to which Buyer is a party or to which any of its property is subject.

(4d) Buyer's FCC Qualifications. Except as hereinafter stated, Buyer is qualified legally, financially and otherwise to become the licensee of the Station, and knows of no reason why the Commission would not grant its consent to the assignment of the License to the Buyer. Buyer currently holds a license from the Federal Communications Commission to operate AM Radio

Station WBNM located in Gordon, Georgia (hereinafter "WBNM"). Buyer will either make application to the Commission to continue to own and operate WBNM after purchase of the Station or seek to divest itself of WBNM prior to purchasing the Station. In either event, if so notified in writing by Buyer, the Closing Date will be extended for a reasonable period of time not to exceed sixty (60) days to allow Buyer time to either obtain a waiver from the Commission for the ownership of WBNM and the Station or to divest itself of WBNM prior to purchasing the Station.

(5) COVENANTS AND FURTHER AGREEMENTS

(5a) Application for Commission Consent and Approval.

Within ten (10) days after the execution hereof, Seller and Buyer shall join in and file the Assignment Application with the Commission. The parties will cooperate and take all steps as may be necessary or proper to prosecute the Assignment Application diligently and expeditiously to a favorable conclusion. Buyer shall pay all fees associated with the preparation and filing of the Assignment Application. Each party shall separately bear their own legal fees to Anderson, Walker & Reichert, counsel for the Buyer, and Talbot & Ladson, P.C., counsel for the Seller.

(5b) Inspection of the Station. Before the Closing Date, Buyer may through its representatives, make such investigation of the properties, books and records of the Station, and of its financial and legal condition as buyer deems necessary or advisable to familiarize itself with such property

and other matters. Seller agrees that such representatives shall have reasonable access to the premises, documents, books, records and affairs of the Station and shall furnish Buyer with such financial and operation data and other information with respect to the business and properties of the Station as Buyer shall from time to time reasonably request and which is under the Seller's control.

(5c) Condition of the Station Before the Closing.

Between the date hereof and the Closing Date:

(1) Seller will not create or permit to exist any lien, claim or encumbrance against any of the assets to be acquired by Buyer hereunder.

(2) Seller shall not sell, lease or dispose of any of the assets to be acquired by Buyer hereunder and shall maintain the physical assets, etc. listed in Schedule 2 in reasonable condition prior to the Closing Date.

(5d) Brokers and Consultants. The parties represent and warrant to each other that the execution and delivery of the Agreement and the consummation of the transactions contemplated hereby will not give rise to any valid claim against any of the parties hereto for a finder's fee, brokerage commission or other like payment except for a fee to Jay & Associates, which will be paid by Seller at Closing.

(5e) Reliance Upon and Survival of Representations and Warranties. Notwithstanding any investigation at any time conducted by any of the parties hereto, each of the parties hereto shall be entitled to rely on the representations and

warranties of the other parties set forth herein or in any schedule, exhibit or other document delivered pursuant hereto. The representations, warranties, covenants and agreements of the parties shall survive the Closing Date.

(5f) Indemnification.

(1) Seller agrees to defend, indemnify and hold harmless Buyer from and against any loss, claim, damage, liability or expense (including reasonable attorneys' fees) (i) incurred or sustained by Buyer on account of any and all liabilities of Seller; (ii) incurred or sustained by Buyer on account of any misrepresentation or breach of any representation, warranty, covenant, or agreement of Seller contained in this Agreement or in any schedule, exhibit or other document delivered pursuant hereto; or arising from or relating in any way to the operation of the Station by Seller prior to the Closing Date. If any claim is asserted against Buyer for which indemnification may be sought under the provisions of this 5f(1), Buyer shall promptly notify Seller of such claim and thereafter shall permit Seller, at its expense, to participate in the negotiation and settlement of any such claim and to join in the defense of any legal action arising therefrom.

(2) Buyer agrees to defend, indemnify and hold harmless Seller from and against any loss, claim, damage, liability or expense (including reasonable attorneys' fees) (i) incurred or sustained by Seller on account of any misrepresentation or breach of any representation, warranty, covenant or agreement of Buyer contained in any schedule,

exhibit or other document delivered pursuant hereto; or (ii) operation of the Station by Buyer after the Closing Date. If any claim is asserted against Seller for which indemnification may be sought under the provisions of this 5g, Seller shall promptly notify Buyer of such claim and thereafter shall permit Buyer, at its expense, to participate in the negotiation and settlement of any such claim and to join in the defense of any legal action arising therefrom.

(5g) Risk of Loss. The risk of loss, damage or destruction to any of the tangible property to be transferred to Buyer hereunder shall remain with Seller until the Closing Date. Seller shall until the Closing Date keep the property listed in Schedule 2 and the improvements upon the real property listed in Schedule 3 fully insured against loss from casualty or destruction. In the event any of said property constituting less than 25% of the total value of the assets to be conveyed hereunder is destroyed by fire or other casualty Seller shall immediately replace or restore such property. In the event any of said property constitute more more than 25% of the total value of the assets to be conveyed hereunder is destroyed by fire or other casualty Buyer may at its sole option elect to either cancel this Agreement and in such event be refunded all earnest money and rents paid hereunder, or elect to close hereunder and receive an assignment of all insurance proceeds.

(6) CONDITIONS TO THE OBLIGATIONS OF BUYER. The obligations of Buyer to consummate the transactions herein

contemplated are subject to the satisfaction on or before the Closing Date of the following conditions:

✓ (6a) FCC Approval. The Commission shall have consented to the Application, and such consents have become a Final Order.

(6b) FCC License. On the Closing Date, no proceeding shall be pending or threatened which may result in the revocation, cancellation, suspension or modification of the License, and Seller shall deliver to Buyer a certificate dated the Closing Date and signed by an officer of Seller to the effect that they have no knowledge of any such pending or threatened proceeding.

(6c) Truth of Representations and Warranties. The representations and warranties of Seller contained in this Agreement and in any schedule, exhibit or other document delivered pursuant hereto shall be true and correct on and as of the Closing Date with the same effect as through such representations and warranties had been made on and as of such date, and Buyer shall have received a certificate to this effect dated the Closing Date and signed by an officer of Seller.

(6d) Performance of Agreement. Each agreement of Seller to be performed on or before the Closing Date pursuant to the terms hereof or as contemplated herein shall have been duly performed, and Buyer shall have received a certificate to this effect dated the Closing Date and signed by an officer of Seller.

(6e) Consents. All consents by third parties that are required for the assignment of the contracts and leases to Buyer as contemplated hereby, or that are required for the consummation of the transactions contemplated herein, or that are required in order to prevent a breach of or a default under or a termination of any agreement to which Seller is a party or to which any of its property is subject, shall have been obtained in writing.

(6f) Opinion of Seller's Counsel. Seller shall have furnished Buyer with a favorable opinion, dated the Closing Date, of William F. Ladson, Jr., counsel for Seller, in form and substance satisfactory to counsel for Buyer, that:

(1) Seller is a corporation duly organized, validly existing and in good standing under the laws of Georgia.

(2) The execution and delivery of this Agreement and the performance of the transactions contemplated hereby have been duly authorized by all necessary corporate action of Seller, and this Agreement constitutes a legal, valid and binding obligation of Seller.

(3) The instruments of conveyance, assignment and transfer delivered by Seller pursuant to this Agreement constitute legal, valid and binding obligations of Seller and are effective to vest in Buyer all of the right, title and interest of Seller in and to the properties, assets and franchises to which they relate.

(4) The performance of this Agreement by Seller will not result in a breach of or any default under any

agreement to which Seller is a party or to which any of the property of the Station is subject and of which counsel for Seller has knowledge.

(5) To the knowledge of counsel there is no litigation or proceeding pending or threatened which might result in revocation, cancellation, suspension or modification of any of the License or which might have a material adverse effect on the Station or its business properties.

(7) CONDITIONS TO THE OBLIGATIONS OF SELLER. The obligations of Seller to consummate the transactions herein contemplated are subject to the satisfaction on or before the Closing Date of the following conditions:

(7a) FCC Approval. The Commission shall have consented to the Assignment Application, and such consent has become a Final Order.

(7b) Truth of Representations and Warranties. The representations and warranties of Buyer contained in this Agreement and in any schedule, exhibit or other document delivered pursuant hereto shall be true and correct on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of such date, and Seller shall have received a certificate to this effect dated the Closing Date and signed by an officer of Buyer.

(7c) Performance of Agreements. Each agreement of Buyer to be performed on or before the Closing Date pursuant to the terms hereof or as contemplated herein shall have been duly

performed, and Seller shall have received a certificate to this effect dated the Closing Date and signed by an officer of Buyer.

(7d) Opinion of Counsel for Buyer. Buyer shall have furnished Seller with a favorable opinion dated the Closing Date, of Walter H. Bush, Jr., counsel for Buyer, in form and substance satisfactory to counsel for Seller, that:

(1) Buyer is a corporation duly organized, validly existing and in good standing under the laws of Georgia;

(2) The execution and delivery of this Agreement and the performance of the transactions contemplated hereby have been duly authorized by all necessary corporate action of Buyer, and this Agreement constitutes a legal, valid and binding obligation of Buyer.

(3) The performance of this Agreement by Buyer will not result in a breach of or any default under any agreement to which Buyer is a party and of which counsel for Buyer has knowledge.

(8) ENVIRONMENTAL AUDIT. Buyer may, in its discretion, retain one or more environmental consultants of its choosing to inspect the real property listed in Schedule 2, including any surface waters, wells, and ground water on or under such property and conduct such tests and examinations upon such property as any such consultants may deem appropriate. In the event any Hazardous Substances, as hereinafter defined, are found to be present on such property Buyer may terminate this Agreement and be refunded all earnest money and rents paid hereunder.

As used herein, the term Hazardous Substances means any hazardous or toxic substances, materials or wastes, including, but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes which are or become regulated under any applicable local, state or federal law including, without limitation, any material waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a hazardous substance pursuant to Section 31 of the Clean Water Act, 33 U.S.C. Section 1251, et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317), (v) defined as a "hazardous waste" pursuant to Section 1004 of the Resources Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. Section 6303) or (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, compensation, and Liability Act, 42 U.S.C. Section 9601, et seq. (42 U.S.C. Section 9601).

(9) OCCUPANCY OF THE STATION PROPERTY. Buyer may at its option occupy a portion of the Station Property between the date hereof and the Closing Date upon the following terms and conditions:

(a) The exact space to be occupied shall be agreed upon between Buyer and Seller;

(b) Buyer may use the space for an administrative and sales office and for an auxiliary studio or studios for FM Radio Station WMRW and/or AM Radio Station WBNM;

(c) In consideration for said occupancy Buyer agrees to pay Seller the sum of \$500.00 per month (said amount to be prorated on a daily basis if the period of occupancy begins or ends other than at the beginning or end of a month) payable monthly on the first of each month; and,

(d) Buyer shall be responsible for all costs of preparing the space used by it and for insuring its property located therein.

(e) Nothing contained herein shall be construed in any way as giving Buyer the right to control or influence the operation of the Station prior to the closing.

(10) THE CLOSING. The Closing of this Agreement and the deliveries hereunder shall take place on the Closing Date at the offices of Anderson, Walker & Reichert, Macon, Georgia, or at such other place as the parties may mutually agree.

(10a) Deliveries By Seller. At the Closing, Seller shall execute and deliver to Buyer:

(1) Such bills of sale, deeds, assignments (including assignments of the License), and other instruments or conveyance and transfer as may, in the opinion of counsel for Buyer, be reasonably required to effectively vest in Buyer good and marketable title to all of the assets being acquired by Buyer hereunder;

(2) All other certificates, instruments, documents, lists and opinions required to be delivered by Seller under this Agreement;

(3) Such other documents as counsel for Buyer may reasonably request for the purpose of closing this Agreement; and

(10b) Deliveries by Buyer. At the Closing, Buyer shall execute and deliver to Seller:

(1) The check representing the Cash Payment as described in 2b(3); and

(2) All other certificates, instruments, documents and opinions required to be delivered by Buyer under this Agreement.

(11) NOTICES. Any notice or other communication required or permitted hereunder shall be sufficiently given if sent by United States mail, first class postage prepaid, addressed as follows:

(a) If to Seller, addressed to:

Macon Broadcasting Company
c/o Mr. Alfred Lowe, Jr.
2254 Rogers Place
Macon, Georgia 31204

With Copy to:

William F. Ladson, Jr., Esq.
175 New Street
Macon, Georgia 31201

(b) If to Buyer, addressed to:

Quality Broadcasting, Inc.
c/o Mr. James T. McAfee, Jr.
300 Galleria Parkway, #650
Atlanta, Georgia 30339

With Copy to:

Walter H. Bush, Jr., Esq.
Anderson, Walker & Reichert
P. O. Box 6497
Macon, Georgia 31208-6497

or to such other address as may be specified by either party in a written notice to the other party. Any such notice or communication shall be deemed to have been given as of the date so mailed.

(12) PARTIES IN INTEREST. This Agreement and the rights of the parties hereunder may not be assigned (except by operation of law) and shall be binding upon and shall inure to the benefit of the parties hereto and their successors.

(13) ENTIRE AGREEMENT. The schedules and exhibits hereto are an integral part of this Agreement. All understandings and agreements between the parties are merged into this Agreement which fully and completely expresses their agreement and supersedes any prior agreement or understanding relating to the subject matter.

(14) GOVERNING LAW. This Agreement and the agreements contemplated hereby shall be construed in accordance With and governed by the laws of Georgia.

(15) COUNTERPARTS. This Agreement is executed in several counterparts, all of which taken together shall constitute one instrument.

(16) DESCRIPTIVE HEADINGS. The descriptive headings of the several sections of this Agreement are inserted for convenience

only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective, duly authorized officers, all as of the day and year first above written.

MACON BROADCASTING COMPANY

By: 

Its: 

QUALITY BROADCASTING, INC.

By: 

Its:  Vice President

SCHEDULE 1

All Physical Assets, Machinery, Equipment, Intangible
Personal Property

See attached inventory consisting of four (4) pages

MACON BROADCASTING COMPANY
EQUIPMENT INVENTORY

AUGUST 2ND 1990

STUDIO BUILDING

QUANTITY	DESCRIPTION
1	Harris Medalist 8 Console
1	Spotmaster SBES-200 Console
2	Spotmaster 303DS Stereo Cart. Mach.
1	Spotmaster SWE Switcher (Stereo)
3	Betms 100/200 Turntable Preamps
2	Harris Microtrak Tone Arms
1	Harris Turntable w/Gray Tone Arm
1	Ampex ATR700 Tape Recorder
1	14" Quartzmatic Clock
2	Shure SM7 Microphones
2	Microphone Boom Stands
1	Tapecaster 700-RPS Cart Machine
1	7' Equipment Rack
1	Composite Remote Control w/Meters
1	Gates Remote Control M4616
5	Double Jack Strips
1	Composite Power Change Control
1	RCA Power Supplies and 2 Preamps
1	Magnecord 1022 Tape Recorder
1	Telco American EBS Encoder/Decoder
1	Cassette Tape Recorder
1	Tapecaster Record/Playback Cart Mach.
2	10" Electric Clocks
1	Fairfield Dart 384 Satellite Downconverter & Receiver
1	10' Satellite Dish
1	Moose MPI-25 Alarm System
1	Alertalight Teletype Bulletin/EBS Alarm
1	Dual Audible Alarms LR-1
1	McMartin LT80C Amplifier

TRANSMITTER BUILDING

QUANTITY	DESCRIPTION
1	Harris MW-1 1KW Solid State Transmitter
1	RCA BTA-1R 1KW Transmitter
1	Composite 250 Watt Transmitter
1	76" Equipment Rack
1	84" Equipment Rack
1	RCA WF-48A Frequency Monitor
1	RCA WM-43A Modulation Monitor
1	Harris Solid Statesman AGC Amplifier
1	UREI Limiter/Compressor Amplifier
1	Inovonics NRSC Preemphasis Filter
1	Harris 80 Modulation Monitor
1	Harris Solid State Enhancer
1	RCA BA6A Limiter
1	Gates Sta-Level AGC Amplifier
1	Gates Monitor Amplifier
3	Double Jack Strips
2	Double Patch Cords
1	RCA BA2 Limiter Amplifier
1	Composite (Power Max Design) Limiter
1	Composite Remote Control Panel
1	General Electric Transmitter Control Console
1	4 Drawer Filing Cabinet
2	Office Desk
1	Office Chair
1	3 Section Equipment Rack
1	RCA Power supply with 2 Preamps
1	Window Fan (6 Blades)
1	Large Vise on Work Bench
1	Emory Wheel and Motor
1	Double Cabinet (Stock Storage)
1	Roller Type Work Bench w/Stool
1	Heavy Duty Work Bench

TWO-WAY COMMUNICATIONS EQUIPMENT

QUANTITY	DESCRIPTION
1	VHF Yagi Antenna On Stand
2	Reels For Mic Cable/Power Cord
1	Marti Remote Pickup Transmitter
1	Marti Remote Pickup Receiver
1	Heathkit Battery Eliminator 6/12V
1	VHF Antenna For Marti (On Tower)
1	Coax For Marti (On Tower)
1	6" Table Mic Stand

TEST EQUIPMENT

QUANTITY	DESCRIPTION
1	General Radio Distortion And Noise Meter
1	Simpson 260 Volt/Ohm Meter
1	Motorola Watt Meter
1	50C Element Frequency Range 100-250 MC
1	50A Element Frequency Range 25-60 MC

SCHEDULE 2

Real Property Including Improvements Thereon
And Fixtures Thereto

All that tract or parcel of land lying and being in the City of Macon and Bibb County, Georgia, as shown and portrayed on a plat of the Corbin Property, said plat being recorded in Plat book 1, Page 269 and retraced in Plat Book 10, Page 114. the Property herein conveyed included all of Lots M, N, O, P, Q and a portion of Lot L, all as shwon on the above-referenced plat, portion conveyed by Macon Broadcasting Co. to Mrs. D. Albert Walker by a warranty deed dated March 15, 1945, and recorded in Deed Book 515, Page 307, in said Clerk's Office. This is the same property as was conveyed to Macon Broadcasting Co. by Mr. Waldron Ferris by a warranty deed dated March 14, 1945, recorded in Deed Book 515, Page 306, said Clerk's Office.

SCHEDULE 3

Contracts

None

**Explanation of Other Broadcast Interests and
Request for Waiver of Multiple Ownership Rules**

1. Other Broadcast Interests

Quality Broadcasting, Inc., ("Quality") is currently the licensee of Stations WMRW (FM) and WBNM (AM) in Gordon, Georgia. There is currently a renewal application pending for Station WMRW (File No. BRH-881101UA), as well as an application to modify its license (File No. BMLH-900130KD). There is also a renewal application pending to Station WBNM (File No. BR-881101UB).

James T. McAfee Jr., President, Director, and 100% voting stockholder of Quality, is also President, Director and 100% voting stockholder of Quality Broadcasting of Tennessee, Inc. ("Quality of Tennessee"). James T. McAfee, III, Secretary, Treasurer, and Director of Quality is also Secretary, Treasurer, and Director of Quality of Tennessee. Quality of Tennessee is the licensee of Station WQCR (AM) in Jackson, Tennessee and Station WZDQ (FM) in Humboldt, Tennessee. There is currently a renewal application pending for Station WZDQ (File No. BRH-890403YJ), as well as an application to modify its license (File No. BMLH-900316KB).

2. Request for Waiver of Section 73.3555(a)(1)

The 5 mV/m contours of Station WBNM in Gordon, GA, and Station WNEX in Macon, GA overlap and Quality hereby respectfully requests a temporary waiver of Section 73.3555(a)(1) of the Commission's Rules to allow time for the orderly divestiture of station WBNM which will bring Quality in compliance with the Commission's Rules.^{1/} Specifically, Quality requests a waiver of Section 73.3555(a)(1) for a twelve month period.

Although the overlap area is not unsubstantial, no undue concentration of media will result by the grant of a twelve month waiver. Quality will staff, operate, and program WNEX and WBNM separately. In addition, there are currently approximately eight other radio stations licensed to Macon alone. Therefore, a limited waiver will not have a significant impact on diversity or competition.

Furthermore, as the Commission has recognized in previous cases, it would be inequitable to require Quality to chose between an immediate forced sale of its existing station or forego the opportunity to move to a larger broadcast market.

Citadel Communications Co., Ltd., 67 R.R.2d 1605 (1990), citing KRTH(AM), 67 R.R.2d 935, 936 (1990). In addition, the forced

^{1/} The Commission is currently seeking Comments on a Notice of Proposed Rule Making, MM Docket No. 91-140, released May 30, 1991, which proposes to modify the existing duopoly rule to allow a single entity to own two or more AM stations in the same area. If the Commission should relax its ownership rules, thus allowing for the common ownership of Stations WNEX and WBNM, Quality, of course, would no longer need to divest Station WBNM to be in compliance with Commission Rules.